PLANNING STATEMENT

CONSTRUCTION OF LOW CARBON DWELLING IN LIEU OF EXTANT CLASS Q PERMISSION TO CONVERT EXISTING BARN TO A DWELLING

Barn east of Hill Place, Ewyas Harold Common, Hereford, HR2 0JG

Author	Date	Job Ref
Russell Pryce MRTPI	March 2024	5384

E:russell@collinsdb.co.uk T:07931 808200

Collins Design & Build & Project Management

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1 The Site and Surroundings

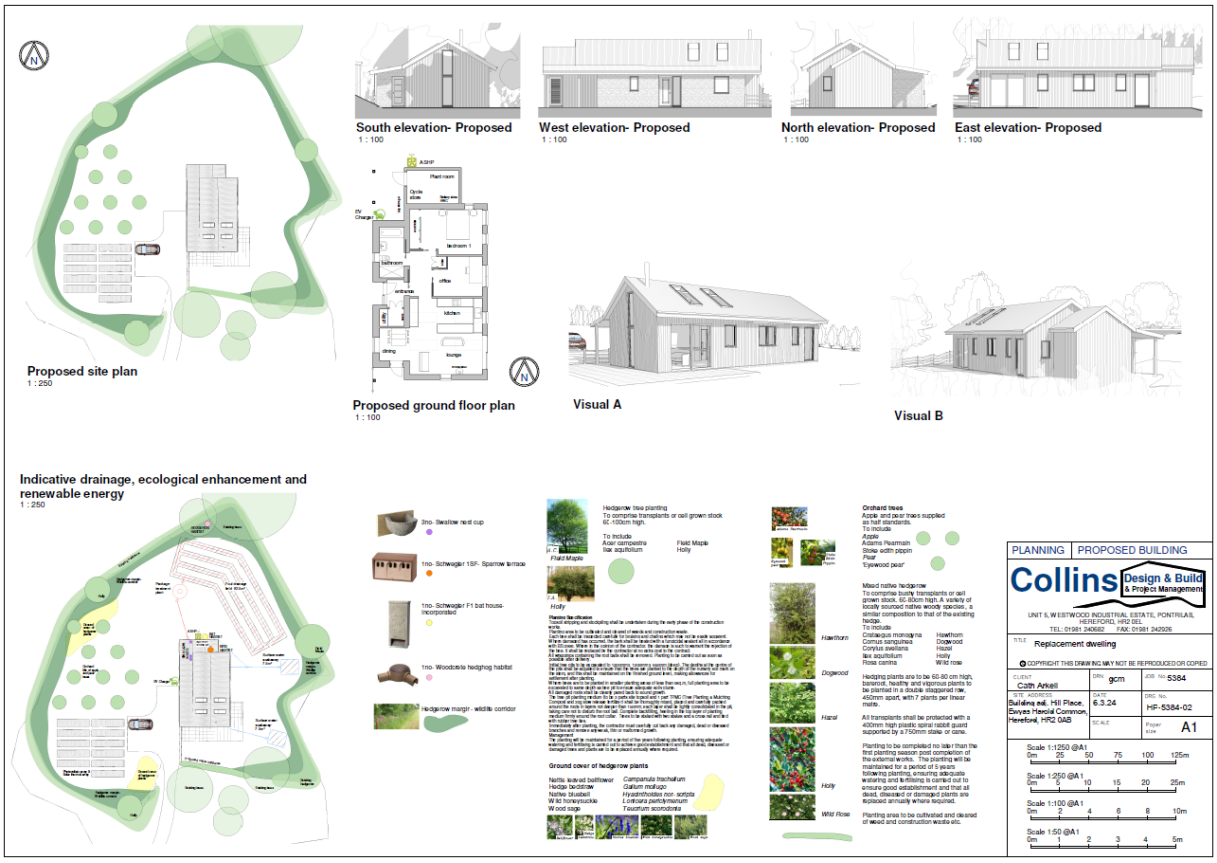
1.1 The site is located along the northern boundary of Ewyas Harold Common, 1KM north west of Ewyas Harold. Access to the site is gained from the tracks that cross the common connecting with unclassified road U74211, 260 metres north west of the site. The location of the site is outlined in red on the plan below.

1.2 Immediately to the west is a detached two storey dwelling – Hill Place, the remainder of the site adjoins a mixture of common and agriculture pasture land. Near the southern boundary of the site is an agricultural building comprising a Dutch barn with attached single storey lean-to off the western elevation. This is clad and roofed with corrugated sheeting and has extant planning to be converted into a dwelling. West of this is a field gate and track providing access into the site and a small gravelled hardstanding area. The remainder of the site is largely grass. The boundaries are defined with a mixture of native hedge and post and wire fencing, and levels fall from south west to north east across the site.

2 The Proposal

2.1 Full planning permission is sought for the replacement of the extant planning permission for conversion of the existing barn to a dwelling with a new build modest one bedroom dwelling.

2.2 The dwelling will occupy a similar siting and footprint to the existing building and is of simple single storey pitched roof design. The majority of the dwelling will be clad with vertical timber and the west elevation will be natural stone all under a metal standing seam roof. The existing access will be used and driveway extended to create a parking and manoeuvring area. A new package treatment plant will manage foul drainage and surface water will be managed sustainably within the site.



3. Planning Policy Assessment

The Development Plan

3.1 In accordance with Section 38(6) of the Planning and Compulsory Act 2004, this proposal must be determined in accordance with the development plan unless material planning considerations indicate otherwise.

3.2 In Herefordshire, the Development Plan consists of the Herefordshire Local Plan Core Strategy (CS) which was adopted in October 2015 and runs from the period 2011 to 2031. In November 2020, a decision was taken to prepare a new plan but this is likely to be another two years to achieve adoption and so the current Core Strategy remains the relevant development plan for decision making purposes.

3.3 The site also falls within Ewyas Harold group Neighbourhood Development Plan area and their NDP was adopted on 20th April 2018.

3.4 Also relevant is the National Planning Policy Framework 2023. This is a material planning consideration and introduced a national policy framework that requires a positive and proactive approach to the consideration of development that is sustainable. This is facilitated through applying a policy test of a presumption in favour of sustainable development into decision making.

3.5 The site is not within or adjoining the built up area of a settlement and lies outside of the settlement boundary identified in NDP and so in planning policy terms, falls within a countryside location.

3.6 Core Strategy Policy RA3 – 'Herefordshire's Countryside' sets out the circumstances where the principle of new build residential development will be supported in countryside locations. One of the criteria is a replacement dwelling which is in effect what this application proposes. However, the policy stipulates that the dwelling being replaced must have established residential use rights and as the extant planning for the conversion works have not yet been progressed, this criteria is not met. The proposal does not meet the other criteria in policy RA3. Consequently, there is a conflict with this policy.

4. Material Planning Considerations

4.1 Planning legislation requires that applications be determined in accordance with the development plan unless material planning considerations dictate otherwise.

4.2 Paragraph 008 of National Planning Practice Guidance section on 'Determining a Planning Application' explains as follows:

> *A material planning consideration is one which is relevant to making the planning decision in question (eg whether to grant or refuse an application for planning permission).*

4.3 Extant permission exists for the conversion of the existing building to a one bedroom dwelling – ref P220060/PA4.

4.4 In the court case R. v Secretary of State for the Environment Ex p. PF Ahern (London) Ltd [1998] Env. L.R. 189 it was ruled that an alternative planning scenario or 'fallback' situation is a valid material planning consideration that can be attributed significant weight by the decision maker. This case established 3 key things the decision maker should have regard to in considering a fallback situation:

i. is there a legal fall-back development, i.e. can the applicant lawfully undertake the development without any new planning permission;

ii. is there a real prospect of the development occurring; and

iii. if the answer to (ii) is "yes", compare the proposed development to the fall-back.

4.5 The Court of Appeal in *Mansell v Tonbridge And Malling Borough Council* [2017] EWCA Civ 1314 considered the legal considerations in determining the materially of a fallback position as a planning judgement. This is directly comparable as it concerned the weight to be given to an alternative Class Q development scheme. The judge in particular grappled with defining what is meant by the term 'real prospect'.

4.6 The judge confirmed the following:

- *….'the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice';* (paragraph 27-2)

- *…..'there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand'* (paragraph 27 -3).

4.7 The judge concluded that the clear desire of the landowner to develop and maximise the value of the site was sufficient to demonstrate there was a real prospect to the fallback development option in that case. In this instance, the applicants have purchased the site on the open market from the original landowner and Class Q applicant and so have a *real prospect* of progressing the Class Q scheme should this application not be approved.

4.8 With regard to comparing the proposed scheme with the fall back, Christopher Lockhart-Mummery QC stated in the Ahern case it is whether:

> *'the proposed development in its implications for impact on the environment, or other relevant planning factors, likely to have implications worse than, or broadly similar to, any use to which the site would or might be put if the proposed development were refused'.*

4.9 The judgement in Mansell also provided further clarity on this matter and explained that a proposal which offers a better, in planning terms, redevelopment opportunity than that which would be achieved by a fallback position should be approved.

4.10 This principle was further established in a planning appeal against Herefordshire Council refusal for replacement of Class Q approval with two new build dwellings in open countryside at Woodend Lane, Ross on Wye (ref 163939) . In summary, the Inspector considered the conversion permission to be a fall-back position of "critical importance" which outweighed a conflict with the development plan. In allowing the appeal, the inspector found the new build proposal to have no greater impact than the fall back.

4.11 More recently, there are numerous comparable Herefordshire Council planning approvals for new build dwellings in place of a Class Q fall back and so the principle is now well established both in law and locally.

5. Comparison with the extant approval

Location and Access

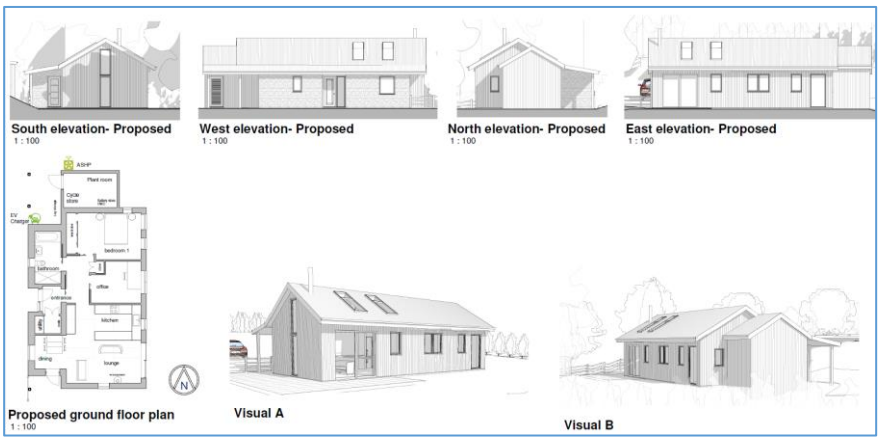
5.1 The fall back permission is for a one bedroom detached dwelling on the same site utilising the same access. In location, accessibility and traffic generation terms, the impact of the new proposal is the same as the fall back development.

5.2 The access and driveway already exists as does a small parking area. New hardstanding is limited to a slightly larger porous gravel parking and maneuvering area adjacent the dwelling commensurate with the size of the dwelling in bedroom terms along with secure cycle storage. The access and parking meets the requirements of CS policy MT1, NDP policy G6 and Section 9 of the NPPF.

Design

5.3 The design of the new dwelling has been informed by the location and setting of the site and character of the wider common. Whilst building styles vary widely across the Common today, historically, dwellings would have been of modest proportions and simple architecture reflecting the primarily low wage agricultural employment of those with commoners rights.

5.4 The proposed dwelling is single storey, of modest proportions and has a simple rectangular form. The pitched roof is also more in keeping with properties on the common. The fenestration is balanced, uncomplicated with no glazing bars and proportionate with the elevations. The use of a mixture of timber cladding and natural stone to the elevations and metal sheet roof will also create a muted appearance. The applicants run their own tree surgery business and so require a home office in connection with this.



5.5 This scale compares favorably with the extant planning which is also for a one bedroom dwelling of a similar height to the proposed dwelling. The siting also ensures that acceptable privacy and garden is achieved for the neighbouring dwelling and proposed dwelling.

5.6 The existing building is of no architectural merit, is a mismatch of two buildings and is somewhat of an anomaly on the common. The approved design for this building is utilitarian and the glazing is also heavily unbalanced and includes a very large glazed opening, which will make it difficult to prevent overheating in the summer.

5.7 The scale, design and appearance of the new dwelling will integrate successfully with the site characteristics and context and is a higher quality and more sympathetic design solution than the fall back permission. The design accords with CS policy SD1 and NDP policy G1 and G2 along with Section 12 of the NPPF.

Sustainability and Carbon Reduction

5.8 There is limited opportunity to achieve a sustainable design and construction with the fallback permission as the conversion has to be achieved within the constraints of the existing building. Furthermore, conversion schemes do not have to accord with the Standard Assessment Procedure (SAP) assessment under Part L of Building Regs 2023 (Conservation of Fuel and Power) in order to achieve Building Regulations approval.

5.9 The applicant's objective with the new dwelling is to achieve a carbon neutral design and construction that minimises future energy demands and associated carbon impact. This is firstly achieved by adopting a 'fabric first' approach to the design and construction to achieve super insulated airtight house that minimises heat loss. Key to this is a dwelling that has a simple form.

5.10 More stringent targets for the U-values of walls, floors, roofs, windows and doors, along with thermal bridging and air tightness will be specified in order that the energy demands of new dwelling is minimised. The objective is to achieve close to passive house standards in this regard as follows:

Element	U value w/m2k Permeability m 3 (h.m2)	Current 2023 Building Regs Maximum Limits
Wall	0.15	0.26
Roof	0.10	0.16
Floor	0.11	0.18
Openings	1.0	1.6
Air Permeability	3	8

5.11 This will be complemented with ground mounted solar and battery storage and the house will be heated with air source heat pump. Ground mounted solar thermal is also included to provide a renewable supply of hot water. A dedicated room is included to house all the plant associated with the above renewables and low carbon heating system.

5.12 The house will also have an electric vehicle charging point and space to accommodate cycle storage.

5.13 Natural materials will be used where possible. The applicant is a tree surgeon and has access to locally sourced wood that will be used for the cladding and the stone will also be locally sourced. Materials will also be used that can be recycled at the end of their life.

5.14 Water efficiency measures will also be employed including the use of dual flush toilets, flow restrictors on taps and installation of water buts directly connected to the rainwater system for the house for irrigation of the garden. All appliances will also be 'A+' rated and low energy lighting system will also be installed. This will enable the environmental and water efficiency standards set out in policies SD1 and SD3 to be achieved.

5.15 None of these measures are proposed with the fallback development or indeed required under current Building Regulations. The carbon impact and environmental performance of the proposed dwelling is significantly better than the fallback development equating to around a 75% carbon reduction over the lifetime of the dwelling. This is particularly pertinent with the Council having declared a climate emergency in 2020 and is supported by CS policy SD1 and NDP policy G2.

Biodiversity

5.16 The application is supported by an ecology survey which examines the existing habitats and species within and adjoining the site and how the proposal impacts on the ecological value of the site. This included a bat roost assessment and full reptile survey during the optimum survey seasons.

5.17 The application site primarily comprises of species poor agriculturally improved grassland of low ecological value. Some of the hedgerows are species rich but don't meet the definition of 'Important Hedgerows' under the Hedgerow Regulations and no hedges will be removed or impacted on by the development. No evidence of bats or reptiles were detected on site. The ecology survey confirms that the loss of the barn and some grassland will have a negligible ecological impact.

5.18 The ecology survey also confirms that there are also no other ecological habitats or species nearby that will be impacted upon by the development.

5.19 The development offers the opportunity to significantly enhance the ecological value of the site through the new native hedgerow, tree and orchard planting, creation of wildlife margins adjoining existing hedgerows planted with hedgerow plants and the installation of bat, bird and hedgehog boxes. This will achieve a significant net gain in biodiversity. The fallback development did not include an ecology survey or any biodiversity enhancement measures.

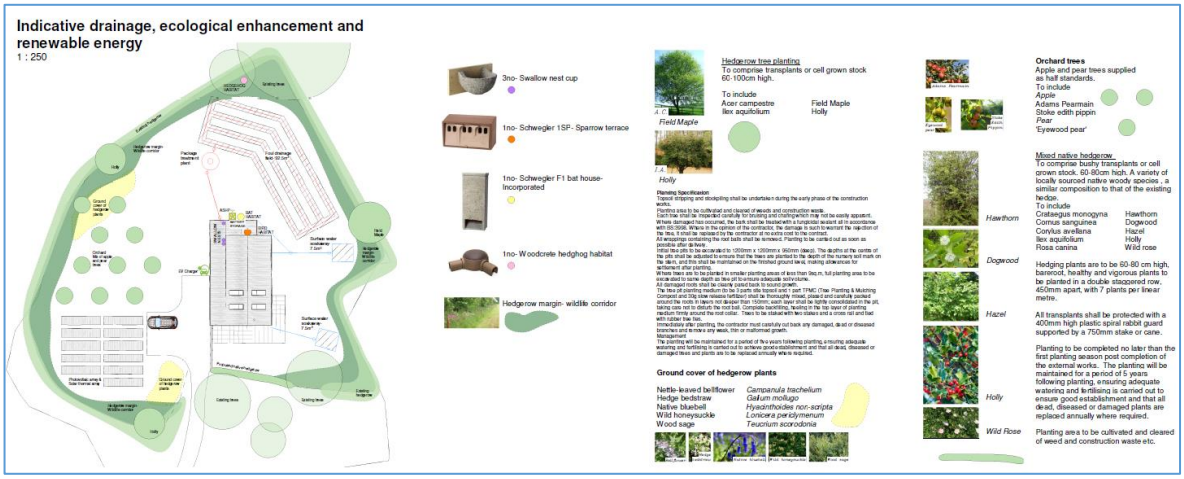
5.20 The development meets the requirements of CS policy LD2 and NDP policy G2.

Landscape

5.21 The site is adjacent but outside of the common but displays some of characteristics of wayside plots on the edge of the common. It is relatively well defined and enclosed by existing boundary hedges, fences and trees immediately adjoining the site. However, the open character of the adjacent common in the locality means the existing building is relatively visible in the immediate area. The proposed dwelling is single storey and the scale in terms of height is comparable to the existing building ensuring it has no greater

landscape prominence whilst the muted pallete of materials will aid in integrating the dwelling into the landscape context.

5.22 The application also includes landscape enhancement proposals. This will comprise of native hedge planting, hedgerow trees, an orchard and hedgerow margin planting such as bluebell and wood sage. This planting will aid in integrating the development into the landscape context and has been informed by the edge of common landscape character that the site sits within and is in accordance with CS policy LD1 and NDP policy G1. No such planting was proposed or approved with the fallback permission.



Drainage

5.23 The site is not affected by flooding from any source. A new package treatment plant is proposed to manage foul drainage from the development discharging into a drainage field soakaway on land north east of the dwelling. Foul soakaway tests have been completed (see following page) which verify that ground conditions will support infiltration drainage and adequate land exists within the applicant's ownership to accommodate the required drainage. The system will also ensure there will be no likely significant effect on local watercourses.

Site Name : Site adj Hill Place, EH Common

Date: July 2023

Foul Trial Hole 1			Water reading number		
Hole fill number		1	75% full	25% full	
1	Time (minutes)		0	217	
	Depth of water (mm)	300	225	75	Avg 75/25 drop time - 231.3 minutes
					Vp = 92.5
2	Time		0	242	
	Depth of water	300	225	75	92.5 X 5 x 0.2 = 92.5
3	Time		0	235	
	Depth of water	300	225	75	

Depth to top of trial pit below ground level - 600mm

Water Table Reading (if encountered)	Not encountered at 2.1M

5.24 Surface water runoff from the existing building discharges to soakaways around the building. The same strategy is proposed for the new dwelling and the impermeable areas are similar. Surface water soakaway tests have also been completed which have revealed that ground conditions will support infiltration drainage. The surface water drainage system will have capacity to accommodate a peak 1 in a 100 year +40% CC rainfall event. The parking area will be a permeable construction incorporating a deeper sub base to manage heavier rainfall events.

Site Name : Barn adj Hill Place, EH Common

Date: July 2023

Surface Water Trial Hole 2			Water reading number	
Hole fill number		1	75% full	25% full
1	Time (minutes)		0	238
	Depth of water (mm)		675	225
2	Time		0	291
	Depth of water		675	225
3	Time		0	276
	Depth of water		675	225

Trial Pit Dimensions			
number	Depth (mm)	Length	Width
SW1	900	1200	450
	900		
Water Table	Water level below ground level - mm		
	Not Encountered at 2.1M		

5.25 The fallback permission did not require a package treatment plant and so a septic tank system could be installed, which is a cheaper option. The phosphorus concentration of discharges from a septic tank is approximately ten times that of an efficient package treatment plant. This is a significant betterment over the

fallback situation and satisfies the flood risk, drainage and water quality requirements of CS policies SD3 and SD4 and NDP policy G3.

6. Summary

6.1 The proposal seeks to replace the extant planning for the conversion of the existing barn to create a one bedroom dwelling with the construction of a new one bed dwelling.

6.2 The proposal does not accord with CS policy RA3 but in this instance, the fall back permission is a material planning consideration that can be attributed significant weight by the decision maker and supports approval of the development. In support of this, the proposed development will achieve a number of planning benefits over the inferior fallback development as follows:

- A high quality design that has been informed by and is sympathetic to the location and landscape setting of the site.
- A sustainable design that minimises the carbon impact and future energy demands of the dwelling through improved thermal efficiency, renewables and low carbon heating system
- Landscape and ecology enhancement
- A sustainable drainage solution that minimises phosphates
- No greater impact in terms of access, accessibility and traffic.

6.3 In summary, the proposal will achieve a sustainable development and there are no technical reasons why permission should be withheld.